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EXAMINER

PARSLEY, DAVID J

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 09/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/892,486

Applicant(s)

D'AGNONE ET AL.

Examiner

David J Parsley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 10-32 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

PETER M. POON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Detailed Action

Amendment

1. This office action is in response to applicant's amendment (paper no. 5) dated 7-1-02 and this action is final.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 12-14 and 23-25 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The statement that the line of perforations is a "discontinuous line of perforations" is new matter which is not supported by the specification.

Claims 16 and 22-27 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The statement in claim 16, that the minor opposing surface areas are permanently adhesively bonded to each other is not supported in the specification.

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Claims 22-27 depend from rejected claim 16 and include all of the limitations of claim 16 thereby rendering these dependent claims rejected under 35 U.S.C. 112 1st paragraph.

Claims 28-32 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The statement in claim 28, “a paper product comprising a plurality of pairs of first and second sheets each having first and second opposite paper surfaces with said first paper surfaces being in substantially planar contiguous surface-to-surface opposing relationship at both major and minor opposing surface area portions thereof, said major opposing surface area portions of said first and second paper sheets first surfaces of each pair being substantially permanently adhesively bonded to each other” is not supported in the specification. Also the statement “a line of perforations in said first and second paper sheets of each pair”, is further not supported in the specification.

Claims 29-32 depend from rejected claim 28 and include all of the limitations of claim 28 thereby rendering these dependent claims rejected by 35 U.S.C. 112 1st paragraph.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 10 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to what the major and minor surface area portions are in relation to the entire paper product.

Claims 11-27 depend from rejected claim 10 and include all of the limitations of claim 10 thereby rendering these dependent claims indefinite.

Claims 29-32 depend from rejected claim 28 and include all of the limitations of claim 28 thereby rendering these dependent claims indefinite.

Claims 12-14 and 23-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to how a discontinuous line of perforations can “facilitate the separation of said major and minor opposing surface area portions from each other” since a discontinuous perforation does not extend across the entire paper product.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 10-11 and 16 are rejected under 35 U.S.C. 102(a) as being anticipated by DE Patent No. 3834812 to Baumli.

Referring to claim 10, Baumli discloses a paper product comprising first and second paper sheets each having first and second opposite paper surfaces with the first paper surfaces being in substantially planar contiguous surface-to-surface opposing relationship at both major – 1 and minor – 7 opposing surface area portions thereof, the major opposing surface area portions of the first and second paper sheets first paper surfaces being substantially permanently adhesively bonded to each other, a line of perforations – 8 in the first and second paper sheets which is adapted to be torn to facilitate the separation of the major – 1 and minor – 7 opposing surface area portions from each other, and a germinative seed – S housed between the minor opposing surface area portions which can be subsequently planted absent adversely affecting damaging or destroying the major opposing surface area portions – see for example figures 5-6.

Referring to claim 11, Baumli discloses the line of perforations – 8 is a substantially continuous line of perforations – see for example figures 5-6.

Referring to claim 16, Baumli does disclose the minor opposing surface area portions – 7 of the first and second paper sheets first paper surfaces are substantially permanently adhesively bonded to each other – see for example figures 5-6.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baumli as applied to claim 10 above, and further in view of U.S. Patent No. 6,146,731 to Tanoto.

Referring to claim 12, Baumli does not disclose the line of perforations is a substantially discontinuous line of perforations. Tanoto does disclose the line of perforations – 64 and 84 is a substantially discontinuous line of perforations – see for example figures 3, 3A, 4, and 4A. Therefore it would have been obvious to one of ordinary skill in the art to take the paper product of Baumli and add the discontinuous line of perforations of Tanoto, so as to allow for the paper sheet to stay attached to the entire paper product while allowing one to view under the perforated portion of the paper product.

Referring to claim 13, Baumli does not disclose the line of perforations is a substantially discontinuous line of perforations extending substantially between edges of the sheets. Tanoto does disclose the line of perforations – 64 and 84 is a substantially discontinuous line of perforations extending substantially between edges of the sheets – see for example figures 3, 3A, 4, and 4A. Therefore it would have been obvious to one of ordinary skill in the art to take the paper product of Baumli and add the discontinuous line of perforations extending between edges of the sheets of Tanoto, so as to allow for the paper sheet to stay attached to the entire paper product while allowing one to view under the perforated portion of the paper product.

Referring to claim 14, Baumli does not disclose the line of perforations is a substantially discontinuous line of perforations extending substantially between opposite edges of the sheets. Tanoto does disclose the line of perforations – 64 and 84 is a substantially discontinuous line of perforations extending substantially between opposite edges of the sheets – see for example figures 3, 3A, 4, and 4A. Therefore it would have been obvious to one of ordinary skill in the art

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to take the paper product of Baumli and add the discontinuous line of perforations extending between opposite ends of the sheets of Tanoto, so as to allow for the paper sheet to stay attached to the entire paper product while allowing one to view under the perforated portion of the paper product.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baumli as applied to claim 10 above, and further in view of U.S. Patent No. 4,027,340 to Hadtke. Baumli does not disclose the line of perforations is a substantially continuous closed line of perforations. Hadtke does disclose the line of perforations – 22 and 24 is a substantially continuous closed line of perforations – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the paper product of Baumli and add the line of perforations being a closed continuous line of Hadtke, so as to allow for the perforated section to be removed from the paper product while not damaging the non-perforated portion of the paper product.

Claims 16 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baumli as applied to claim 10 above, and further in view of U.S. Patent No. 6,383,593 to Fabel.

Referring to claim 16, Baumli does not disclose the minor opposing surface area portions of the first and second paper sheets first paper surfaces are substantially permanently adhesively bonded to each other.

Referring to claim 22, Baumli as modified by Fabel further discloses the line of perforations – 8 is a substantially continuous line of perforations – see for example figures 5-6 of Baumli.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baumli as applied to claim 10 above, and further in view of U.S. Patent No. 5,860,245 to Welch. Baumli

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further discloses an adhesive bonds the major opposing surface area portions to each other – see for example figures 5-6. Baumli does not disclose the adhesive is decomposable. Welch does disclose the adhesive is decomposable – see column 3 lines 3-10. Therefore it would have been obvious to one of ordinary skill in the art to take the paper product of Baumli and add the decomposable adhesive of Welch, so as to make the paper product more effective in promoting the plant seed to grow since the adhesive is decomposable and environmentally friendly and thus won't harm the growth of the seed into a plant.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baumli as applied to claim 10 above, and further in view of U.S. Patent No. 4,168,002 to Crosby. Baumli does not disclose a means for indicating the presence of the germinative seed between the minor opposing surface area portions. Crosby does disclose a means – see column 3 lines 44-52 for indicating the presence of the germinative seed between the minor opposing surface area portions – 17 and 18. Therefore it would have been obvious to one of ordinary skill in the art to take the paper product of Baumli and add the means for indicating the presence of the seed of Crosby, so as to allow for one to verify the seed is between the minor surface area portions of the paper product without damaging the paper product.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baumli as applied to claim 10 above, and further in view of U.S. Patent No. 4,838,580 to Tuhkanen. Baumli does not disclose the major opposing surface area portion provides means for defining an address field. Tuhkanen does disclose the major opposing surface area portion – 6f provides means for defining an address field – 23 – see for example figures 1-8 and column 2 lines 60-65. Therefore it would have been obvious to one of ordinary skill in the art to take the paper product

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of Baumli and add the major surface areas with address field of Tuhkanen, so as to make the paper product more user friendly since the address field won't be interfered with as the seed grows into a plant, thus allowing the user to be able to read the address field at all times.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baumli as applied to claim 10 above, and further in view of Baumli. The embodiment of Baumli as discussed in claim 10 does not disclose the major opposing surface area portion provides means for defining an inscription field. A further embodiment of Baumli does disclose the major opposing surface area portion – 1 provides means for defining an inscription field – see for example figures 1-3. Therefore it would have been obvious to one of ordinary skill in the art to take the paper product of Baumli and further add the means for defining an inscription field of Baumli, so as to make the paper product more visually pleasing in that inscriptions can be placed onto the paper product.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baumli as applied to claim 10 above, and further in view of U.S. Patent No. 5,062,229 to Werjefelt. Baumli does not disclose the major opposing surface area portion provides means for defining a calendar field. Werjefelt does disclose the major opposing surface area portion provides means for defining a calendar field – 30 – see for example figures 1-5. Therefore it would have been obvious to one of ordinary skill in the art to take the paper product of Baumli and add the major surface area portion providing means for defining a calendar field of Werjefelt, so as to allow for the paper product to not be wasted and immediately discarded in that the calendar can be used throughout the year.

Claims 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baumli as modified by Fabel as applied to claim 16 above, and further in view of Tanoto.

Referring to claim 23, Baumli as modified by Fabel does not disclose the line of perforations is a substantially discontinuous line of perforations. Tanoto does disclose the line of perforations – 64 and 84 is a substantially discontinuous line of perforations – see for example figures 3, 3A, 4, and 4A. Therefore it would have been obvious to one of ordinary skill in the art to take the paper product of Baumli as modified by Fabel and add the discontinuous line of perforations of Tanoto, so as to allow for the paper sheet to stay attached to the entire paper product while allowing one to view under the perforated portion of the paper product.

Referring to claim 24, Baumli as modified by Fabel does not disclose the line of perforations is a substantially discontinuous line of perforations extending substantially between edges of the sheets. Tanoto does disclose the line of perforations – 64 and 84 is a substantially discontinuous line of perforations extending substantially between edges of the sheets – see for example figures 3, 3A, 4, and 4A. Therefore it would have been obvious to one of ordinary skill in the art to take the paper product of Baumli as modified by Fabel and add the discontinuous line of perforations extending between edges of the sheets of Tanoto, so as to allow for the paper sheet to stay attached to the entire paper product while allowing one to view under the perforated portion of the paper product.

Referring to claim 25, Baumli as modified by Fabel does not disclose the line of perforations is a substantially discontinuous line of perforations extending substantially between opposite edges of the sheets. Tanoto does disclose the line of perforations – 64 and 84 is a substantially discontinuous line of perforations extending substantially between opposite edges

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of the sheets – see for example figures 3, 3A, 4, and 4A. Therefore it would have been obvious to one of ordinary skill in the art to take the paper product of Baumli as modified by Fabel and add the discontinuous line of perforations extending between opposite ends of the sheets of Tanoto, so as to allow for the paper sheet to stay attached to the entire paper product while allowing one to view under the perforated portion of the paper product.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baumli as modified by Fabel as applied to claim 16 above, and further in view of Hadtke. Baumli as modified by Fabel does not disclose the line of perforations is a substantially continuous closed line of perforations. Hadtke does disclose the line of perforations – 22 and 24 is a substantially continuous closed line of perforations – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the paper product of Baumli as modified by Fabel and add the line of perforations being a closed continuous line of Hadtke, so as to allow for the perforated section to be removed from the paper product while not damaging the non-perforated portion of the paper product.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baumli as modified by Fabel as applied to claim 16 above, and further in view of Crosby. Baumli as modified by Fabel does not disclose a means for indicating the presence of the germinative seed between the minor opposing surface area portions. Crosby does disclose a means – see column 3 lines 44-52 for indicating the presence of the germinative seed between the minor opposing surface area portions – 17 and 18. Therefore it would have been obvious to one of ordinary skill in the art to take the paper product of Baumli as modified by Fabel and add the means for

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indicating the presence of the seed of Crosby, so as to allow for one to verify the seed is between the minor surface area portions of the paper product without damaging the paper product.

Claims 28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baumli in view of Werjefelt.

Referring to claim 28, Baumli discloses a paper product comprising first and second paper sheets each having first and second opposite paper surfaces with the first paper surfaces being in substantially planar contiguous surface-to-surface opposing relationship at both major – 1 and minor – 7 opposing surface area portions thereof, the major – 1 opposing surface area portions of the first and second paper sheets first paper surfaces of each pair being substantially permanently adhesively bonded to each other, a line of perforations – 8 in the first and second paper sheets which is adapted to be torn to facilitate the separation of the major – 1 and minor – 7 opposing surface area portions from each other, a germinative seed – S housed between the minor – 7 opposing surface area portions of each pair which can be subsequently planted absent adversely affecting, damaging or destroying the major opposing surface area portions – see for example figures 5-6.

Baumli does not disclose a plurality of pairs of first and second paper sheets. Werjefelt does disclose a plurality of pairs of first and second paper sheets – 24 and 26 – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the paper product of Baumli and add the plurality of pairs of paper sheets of Werjefelt, so as to allow for the device to be more efficient and cost effective in that multiple quantities of seeds to be transported and subsequently planted by the user.

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Baumli further does not disclose a means for connecting the pairs of paper sheets together. Werjefelt does disclose a means – 5,6,7 for connecting the pairs of paper sheets – 24 and 26 together – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the paper product of Baumli and add the means for connecting the pairs of sheets together of Werjefelt, so as to allow one to carry the plurality of sheets together as a whole without damaging or losing any of the sheets.

Referring to claim 29, Baumli as modified by Werjefelt further discloses the connecting means – 5,6,7 are located along a common edge of the pairs – 24 and 26 – see for example figures 1-2 of Werjefelt. Therefore it would have been obvious to one of ordinary skill in the art to take the paper product of Baumli as modified by Werjefelt and further add the connecting means located along a common edge of the pairs of Werjefelt, so as to allow for the paper product to be easily manufactured in that the connecting means are located on only one edge of the paper product.

Referring to claim 30, Baumli as modified by Werjefelt further discloses each of the pairs – 24 and 26 defines a calendar field – 30 – see figures 1-2 of Werjefelt. Therefore it would have been obvious to one of ordinary skill in the art to take the paper product of Baumli as modified by Werjefelt and add the pairs defining a calendar field of Werjefelt, so as to allow for the paper product to not be wasted and immediately discarded in that the calendar can be used throughout the year.

Referring to claim 31, Baumli as modified by Werjefelt further discloses each of the pairs defines a calendar field – 24 and a post card field – 26 set-off by each line of perforations – 22 – see for example figures 1-2 and column 3 lines 25-50 of Werjefelt. Therefore it would have been

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obvious to one of ordinary skill in the art to take the paper product of Baumli as modified by Werjefelt and add the pairs defining a calendar field and a post card field of Werjefelt, so as to allow for the paper product to be flexible in that it has many uses.

Referring to claim 32, Baumli as modified by Werjefelt further discloses each line of perforations – 22 extends substantially between opposite edges of each of the pairs – 24 and 26 – see for example figures 1-2 of Werjefelt. Therefore it would have been obvious to one of ordinary skill in the art to take the paper product of Baumli as modified by Werjefelt and add the line of perforations extending between opposite edges of the pairs of Werjefelt, so as to allow for the perforated portion to be quickly torn and removed since the line of perforations extends between two opposite edges of the paper product.

Response to Arguments

6. Applicant's arguments with respect to claims 10 and 28 have been considered but are moot in view of the new ground(s) of rejection.

Regarding claims 10 and 28, the Baumli reference as discussed above does disclose contiguous surface-to-surface opposing relationship between the major portions of the paper sheets. Baumli further discloses a line of perforations in the first and second paper sheets adapted to be torn to facilitate the separation of the major and minor opposing surface area portions from each other, and Baumli further discloses a germinative seed is housed between the minor opposing surface area portions. Therefore the Baumli reference does disclose the claimed features of the amended claims 10 and 28 over the previous references.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to paper products containing seeds in general:

FR Pat. No. 2707832 to Mathieu – shows post card with germinative seeds

WO Pat. No. 94/00975 to Poret – shows postcard with germinative seeds

WO Pat. No. 94/16907 to James et al. – shows paper product with seeds

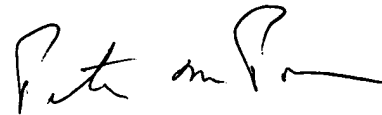
8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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9. Any inquiry concerning this communication from the examiner should be directed to David Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on Monday-Friday from 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574.

A handwritten signature in black ink, appearing to read "Peter M. Poon", with a stylized, flowing script.

PETER M. POON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600